

SENATE BILL No. 191

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-41-37; IC 20-5-2-9.

Synopsis: Smoking on school property. Prohibits smoking on public school property. Restricts the designation of a smoking area in a public school building. Authorizes the removal of a person from public school property for smoking after a request to refrain from smoking. Imposes penalties for smoking or using tobacco products at certain official school sponsored activities.

Effective: July 1, 2002.

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January 7, 2002, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 191

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-41-37-2.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2002]: **Sec. 2.5. As used in this chapter,**
4 **"public school property" means property that is owned by a public**
5 **school (as defined in IC 20-10.1-1-2).**

6 SECTION 2. IC 16-41-37-4 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. A person who:

8 (1) smokes:

9 (†) (A) in a public building, except in an area designated as a
10 smoking area under section 5 of this chapter;

11 (‡) (B) in the retail area of a grocery store or drug store that is
12 designated as a nonsmoking area by the store's proprietor; or

13 (‡) (C) in the dining area of a restaurant that is designated and
14 posted as the restaurant's nonsmoking area by the restaurant's
15 proprietor; or

16 (2) smokes or uses a tobacco product on public school
17 property, except as provided in section 5(d) of this chapter;



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commits a Class B infraction. However, the violation is a Class A infraction if the person has at least three (3) previous unrelated judgments for violating this section **or IC 20-5-2-9** that are accrued within the twelve (12) months immediately preceding the violation.

SECTION 3. IC 16-41-37-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) **Except as provided in subsection (d)**, the official in charge of a public building shall designate a nonsmoking area and may designate a smoking area in the building.

(b) When smoking and nonsmoking areas are designated, the official in charge of a public building may take reasonably necessary measures to accommodate both smokers and nonsmokers.

(c) If a public building consists of a single room, any part or all of the room may be reserved and posted as a nonsmoking area.

(d) Except for a designated area that is not part of a school building, not accessible to students, and screened from the view of students, the official in charge of a building used as a public school (as defined in IC 20-10.1-1-2) may not designate a smoking area in the building.

SECTION 4. IC 16-41-37-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. (a) The official in charge of a public building **or public school property** shall do the following:

(1) Post conspicuous signs that read "Smoking Is Prohibited By State Law Except In Designated Smoking Areas" or other similar language.

(2) Request persons who are smoking in violation of section 4 of this chapter to refrain from smoking.

(3) Remove a person who is smoking **in a public building** in violation of section 4 of this chapter and fails to refrain from smoking after being requested to do so.

(b) The proprietor of a restaurant shall, under sections 4 and 5 of this chapter, post conspicuous signs at each entrance to the restaurant, informing the public of the establishment's smoking policy.

(c) The official in charge of public school property may remove a person who is smoking on public school property in violation of section 4 of this chapter and who continues to smoke after being requested to refrain from smoking.

SECTION 5. IC 20-5-2-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9. (a) **As used in this section, "smoking" has the meaning set forth in IC 16-41-37-3.**

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1 (b) This section does not apply to school sponsored field trips.

2 (c) A school corporation may not enter into a contract or an
3 agreement to conduct an official school sponsored activity at a
4 public or private facility unless the facility:

5 (1) prohibits smoking and the use of tobacco products in the
6 part of the facility that will be used for the official school
7 sponsored activity, including restrooms and hallways, while
8 the activity is being conducted; and

9 (2) conspicuously posts signs that indicate that smoking and
10 the use of tobacco products are prohibited.

11 (d) A person who smokes or uses tobacco products in the part
12 of a facility that is being used for an official school sponsored
13 activity where signs are conspicuously posted indicating that
14 smoking or the use of tobacco products is prohibited commits a
15 Class B infraction. However, the violation is a Class A infraction
16 if the person has at least three (3) prior unrelated judgments for
17 violating this section or IC 16-41-37-4 that are accrued within the
18 twelve (12) months immediately preceding the violation.

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